

Senate Bill No. 50

Passed the Senate August 25, 1998

Secretary of the Senate

Passed the Assembly August 26, 1998

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Sections 17260, 17262, 17303, 17305, 17306, and 17620 of, to add Sections 17009.3, 17009.5, 81134, 81135, and 81136 to, to add Chapter 12.5 (commencing with Section 17070.10) to Part 10 of, to add Part 68 (commencing with Section 100400) to, to repeal Section 15101 of, and to repeal and add Section 17261 of, the Education Code, to amend Section 1003 of the Elections Code, to amend Sections 65995 and 65996 of, and to add Sections 4420.5, 65995.5, 65995.6, 65995.7, 65997, and 65998 to, the Government Code, and to add and repeal Chapter 9 (commencing with Section 51450) to Division 31 of the Health and Safety Code, relating to education facilities, making an appropriation therefor, and by providing the funds necessary therefor through an election for, and the issuance and sale of, bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 50, Greene. Education: Leroy F. Greene School Facilities Act of 1998: Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998: school facilities construction: developers fees.

(1) Existing law prohibits an election on a bond measure of a school district or community college district within 45 days of a statewide election unless conducted at the same time as the statewide election.

This bill would repeal this provision.

(2) Existing law requires the State Department of Education to establish a pool of duplicate plans for school buildings appropriate for school districts in rural areas. Existing law defines school building for this purpose to mean a one-story schoolhouse of not more than 9 classrooms.



This bill would, instead, require the State Allocation Board to obtain construction plans for school buildings appropriate for school districts in the various climates and geographical conditions of the state requiring school buildings of various sizes, would delete this definition of school building and would, instead, make the definition of school building set forth in the Field Act relating to seismic safety apply to these provisions, and would make other conforming and technical, nonsubstantive changes.

(3) Under existing law, known as the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (hereafter the “Greene Act”), the State Allocation Board (hereafter “the board”) is authorized to apportion state funding to applicant school districts for designated school facilities construction purposes.

This bill would prohibit the board from approving any projects pursuant to the Greene Act on and after November 4, 1998. This provision would become inoperative on November 4, 1998, if the bond act described in (6) is not adopted.

This bill would enact the Leroy F. Greene School Facilities Act of 1998, which would establish a new state program in which the board would provide state per pupil funding for new school facilities construction and school facilities modernization. This program would become inoperative on November 4, 1998, if the bond act described in (6) is not adopted.

This bill would establish the 1998 State School Facilities Fund and provide for the continuous appropriation of funds deposited in that fund. The bill would establish a county school facilities fund for deposit of funding for approved projects. By requiring the establishment of this county fund, this bill would impose a state-mandated local program.

(4) Under existing law, the West Contra Costa Unified School District is ineligible for any state facilities funding for a period of 5 years from June 30, 1993, or until the date of the final payment of its entire debt to the state, whichever is later.



This bill would provide that, notwithstanding existing law, the West Contra Costa Unified School District shall be eligible for state school facilities funding on and after November 4, 1998.

(5) Existing law, the Field Act, requires a school district, prior to contracting for the construction or alteration of a school building, to obtain written approval of the construction plans by the Department of General Services pursuant to designated structural safety and other standards. Under an alternative plan review process, if the applicant so requests and the department is unable to commence review within 15 working days, the department is required to refer the review of the application to a qualified individual or firm under contract with the department.

This bill would permit certain local agency building officials to be qualified plan review firms for purposes of these provisions. The bill would permit an applicant to select a qualified plan review firm instead of having the department review the plans. The bill would require the department to contract with a sufficient number of qualified plan review firms. The bill would add similar provisions for review of community college district school building construction plans by the department under the Field Act.

(6) Under existing law, the Public Education Facilities Bond Act of 1996 provides for the issuance, pursuant to the State General Obligation Bond Law, of bonds in an amount not to exceed \$2,025,000,000 and the expenditure of the proceeds therefrom to provide aid to school districts, county superintendents of schools, and county boards of education in accordance with the Greene Act and related school facilities programs.

This bill would enact the Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998, which, upon approval by the state electorate, would provide for the issuance of state general obligation bonds in an amount not to exceed \$9,200,000,000, exclusive of refunding bonds issued pursuant to that act.



The bill would provide that \$3,350,000,000 would be allocated beginning in the 1998–99 fiscal year for school district project funding related to the growth in enrollment of applicant school districts, prescribed reconstruction or modernization, and facilities-related costs for class size reduction. The bill would appropriate the funds for these purposes. The bill would provide that \$3,350,000,000 would be allocated in the 2000–01 fiscal year for similar purposes as described above and would appropriate the funds for these purposes. The bill would provide that \$2,500,000,000 would be deposited in the 1998 Higher Education Capital Outlay Fund, which would be established by the bill, with \$1,250,000,000 issued and sold after July 1, 2000, for higher education facility building construction and related expenditures when appropriated.

This bill would provide that notwithstanding any other provision of law, on the operative date of this bill, specified liens that have been recorded on school district property by the state would be released, and would prohibit the imposition of new liens on and after November 4, 1998.

This bill would declare that it is the policy of the state to exercise prudence in undertaking the sale of bonds otherwise authorized for sale by this bill or any other act, and would encourage undertaking the sale of bonds not to exceed a cumulative debt service to General Fund revenue ratio of 6% unless the sale is in the best fiscal interest of the state.

This bill would provide for the submission to the voters of the Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998 at the November 3, 1998, statewide general election.

(7) Existing law sets forth the exclusive methods of mitigating environmental effects related to the adequacy of school facilities when considering the approval or establishment of conditions for the approval of a development project under the California Environmental Quality Act (CEQA).



This bill would, notwithstanding any other provision of law, instead, set forth exclusive methods of considering and mitigating impacts on school facilities which occur or might occur as a result of any legislative or adjudicative act by any state or local agency involving, but not limited to, the planning, use, or development of real property or any change of governmental organization or reorganization. The bill would also on or after any statewide election in 2006, if a school facilities general obligation bond measure submitted to the voters fails to be approved by the voters, set forth exclusive methods of mitigating environmental effects related to the adequacy of school facilities when considering the approval or the establishment of conditions for the approval of a development project under CEQA. These provisions applicable on or after 2006 would, when operative, make the provisions described in the first sentence of this paragraph inoperative.

This bill would establish a Homebuyer Down Payment Assistance Program and a Rental Assistance Program to provide assistance in the amount of the applicable school facility fee on affordable housing developments. This bill would establish the School Facilities Fee Assistance Fund in the State Treasury and would provide that the fund is continuously appropriated to the Department of General Services. The bill would appropriate \$160,000,000 to that fund for the purposes of these programs, and would require the Department of General Services to contract with the California Housing Finance Agency for the administration of these programs and for allocation of these funds.

(8) Existing law prohibits an officer or employee of the state, or of a public agency or public authority, or person, firm, or corporation acting or purporting to act on behalf of any officer or employee, from negotiating, making application for, obtaining, or procuring any surety bond or contract of insurance, except contracts of insurance for builder's risk or owner's protective liability, that can be obtained or procured by the bidder, contractor, or



subcontractor. Certain projects are excluded from this prohibition.

This bill would exclude a construction project undertaken by a public school district.

(9) Existing law authorizes a public agency to utilize owner-controlled or wrap-up insurance programs on a public works project if the total cost of the project is over \$125,000,000 and other prescribed conditions are met.

This bill would include a public school project within that authority to utilize owner-controlled or wrap-up insurance programs.

(10) Existing law authorizes certain local agencies to impose limited fees or other charges against certain development projects to fund the construction or reconstruction of school facilities. Under existing law, a building permit may not be issued for any development absent certification by the appropriate school district of compliance by the development project with the fee, charge, dedication, or other requirement levied by the governing board of that school district. Under existing law, for residential development, the limit on fees is \$1.50 per square foot and for commercial development the limitation is 25¢ per square foot excluding permissible adjustment for inflation. Existing law prohibits the legislative body of a local agency from levying development fees or other requirements for the construction or reconstruction of schools, other than pursuant to designated statutory authority.

This bill would provide that the fees are \$1.93 for residential development and 31¢ for commercial development, and would provide for subsequent adjustments for inflation. The bill would prohibit fees or other requirements for the construction or reconstruction of schools from being levied or imposed in connection with, or made a condition of, any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property, other than pursuant to designated authority. This bill would provide, in the case of residential construction, a governing board of a school

district may increase the per square foot fee by an amount determined pursuant to a formula for the purpose of generating funds to match the state per pupil and site assistance grant for which the district is eligible to accommodate the projected number of new pupils attributable to the construction of new residential units as demonstrated by a school facility needs analysis. This bill would require the needs analysis to be adopted in accordance with specified notice and procedural requirements. This bill would, when state funds for new facility construction are not available, permit a governing board of a school district that may increase the per square foot fee, as described above, to impose a supplemental amount.

(11) Existing law provides for specific dates on which elections are required to be held, but exempts certain elections from those dates.

This bill would exempt elections held for school bonds from those dates.

(12) This bill would provide that certain of its provisions would not become operative before November 4, 1998, and on that date would only become operative if the Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998 is approved by the voters at the November 3, 1998, statewide general election.

(13) Existing law provides that a bond measure submitted to the people by the Legislature is required to appear on the ballot of the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature. Existing law provides for ballot arguments, press releases, the form of the ballot, public examination, and for the mailing of state ballot pamphlets to the voters, within specified timeframes, for measures that are to be voted upon.

This bill would require, notwithstanding these provisions or any other provision of law, the Secretary of State to cause the Class Size Reduction Kindergarten-University Public Education Bond Act of 1998 to be placed on the ballot and submitted to the voters



at the November 3, 1998, general election and to include in the ballot or supplemental ballot pamphlet information regarding the measure.

(14) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(15) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 15101 of the Education Code is repealed.

SEC. 2. Section 17009.3 is added to the Education Code, to read:

17009.3. The board may not approve any projects pursuant to this chapter on and after November 4, 1998.

SEC. 3. Section 17009.5 is added to the Education Code, to read:

17009.5. (a) On and after November 4, 1998, the board shall only approve and fund school facilities construction projects pursuant to Chapter 12.5 (commencing with Section 17070.10).

(b) A school district with a first priority project that has received a construction approval by the Department of General Services, Division of the State Architect, or a joint-use project approval by the board, prior to November 4, 1998, for growth or modernization pursuant to this chapter shall receive funding pursuant to this chapter for all unfunded approved project costs as it



would have received under this chapter, and the increased capacity assigned to the project shall be included in calculating the district's capacity pursuant to Chapter 12.5 (commencing with Section 17070.10). Funds received for projects described in this subdivision shall constitute the state's final and full contribution to these projects. The board shall not consider additional project funding except where otherwise authorized under Chapter 12.5 (commencing with Section 17070.10).

(c) A school district with a second priority project that has received a construction approval by the Department of General Services, Division of the State Architect prior to November 4, 1998, for growth or modernization pursuant to this chapter shall elect to do either of the following:

(1) Withdraw the application under this chapter, submit an initial report and application pursuant to Chapter 12.5 (commencing with Section 17070.10), and receive per pupil allocations as set forth in Chapter 12.5 (commencing with Section 17070.10). In the event that the district withdraws the application, any funds previously allocated under this chapter for the project shall be offset from the first grant to the district under Chapter 12.5 (commencing with Section 17070.10).

(2) Convert the second priority project approved under this chapter to a first priority status and receive funds in accordance with this chapter.

(d) Notwithstanding priorities established pursuant to Chapter 12.5 (commencing with Section 17070.10), projects authorized for funding as set forth in this section shall be funded by the board pursuant to this chapter prior to funding other projects pursuant to Chapter 12.5 (commencing with Section 17070.10).

(e) For purposes of funding priority for modernization grants under Chapter 12.5 (commencing with Section 17070.10), a district that applies under subdivision (b) or paragraph (1) of subdivision (c) shall retain its original project approval date.



(f) Notwithstanding Section 17017.1, West Contra Costa Unified School District shall be eligible for state facilities funds beginning November 4, 1998.

SEC. 4. Chapter 12.5 (commencing with Section 17070.10) is added to Part 10 of the Education Code, to read:

CHAPTER 12.5. LEROY F. GREENE SCHOOL FACILITIES
ACT OF 1998

Article 1. General Provisions

17070.10. This chapter shall be known, and may be cited, as the Leroy F. Greene School Facilities Act of 1998.

17070.15. The following terms, wherever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) “Apportionment” means a reservation of funds for the purpose of eligible new construction, modernization, or hardship approved by the board for an applicant school district.

(b) “Attendance area” means the geographical area serving an existing or proposed high school and those junior high schools and elementary schools included therein.

(c) “Board” means the State Allocation Board as established by Section 15490 of the Government Code.

(d) “Department” means the Department of General Services.

(e) “Committee” means the State School Building Finance Committee established pursuant to Section 15909.

(f) “Modernization” means any modification of a permanent structure that is at least 25 years old, or in the case of a portable classroom, that is at least 20 years old, that will enhance the ability of the structure to achieve educational purposes.

(g) “Property” includes all property, real, personal or mixed, tangible or intangible, or any interest therein



necessary or desirable for carrying out the purposes of this chapter.

(h) “School district” means a school district or a county office of education. For purposes of determining eligibility under this chapter, “school district” may also mean a high school attendance area.

(i) “Fund” means the 1998 State School Facilities Fund established pursuant to Section 17070.40.

(j) “County fund” means a county school facilities fund established pursuant to Section 17070.43.

(k) “Portable classroom” means a classroom building that is designed and constructed to be relocatable and transportable over public streets, and with respect to a single story portable classroom, is designed and constructed for relocation without the separation of the roof or floor from the building and when measured at the most exterior walls, has a floor area not in excess of 2,000 square feet.

(l) “School building capacity” means the capacity of a school building to house students.

17070.20. The Director of General Services shall administer this chapter and shall provide assistance to the board as it requires.

17070.25. The department shall first publish applications for funding under this chapter by November 4, 1998, and shall be prepared to receive and expeditiously act upon applications on and after that date.

17070.30. The State Allocation Board is continued in existence for the purpose of this chapter. The members of the board and the Members of the Legislature meeting with the board shall have no compensation for their services under this chapter, but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties pursuant to this chapter, to be paid as an administrative expense.

17070.33. (a) The board shall adopt guidelines for use by districts by June 30, 1999, to achieve measurable reductions in the costs of school facilities construction.

(b) The guidelines shall include, but need not be limited to, all of the following:



(1) Mechanisms designed to reduce the costs of professional fees.

(2) Mechanisms designed to reduce the costs of site preparation.

(3) Recommendations for the use of alternate cost-saving construction materials and methods.

(4) Recommendations regarding the joint use of core facilities.

(5) Mechanisms designed to reduce costs by incorporating efficiencies in schoolsite design.

(6) Recommendations regarding the use of cost-effective, efficient reusable facility plans.

(c) If a school district's matching funds include fees charged pursuant to Section 17620 or pursuant to Section 65995.5 or 65995.7 of the Government Code, or if a district receives funds pursuant to this chapter, the district shall consider the guidelines developed pursuant to this section as fully as is practicable.

(d) When the board adopts the guidelines, it shall not include any recommendation that would have a significant detrimental effect on educational programs.

17070.35. In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following:

(a) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter. However, the board shall have no authority to set the level of the fees of any architect, structural engineer, or other design professional on any project. The initial regulations adopted pursuant to this chapter shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this chapter shall be adopted by November 4, 1998. If the initial regulations are not adopted by that date, the board shall report to the



Legislature by that date, explaining the reasons for the delay.

(b) Establish and publish any procedures and policies in connection with the administration of this chapter as it deems necessary.

(c) Determine the eligibility of school districts to receive apportionments under this chapter.

(d) Apportion funds to eligible school districts under this chapter.

17070.40. (a) A fund is hereby established in the State Treasury to be known as the 1998 State School Facilities Fund. All money in the fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated for expenditure pursuant to this chapter.

(b) The State Allocation Board may apportion funds to school districts for the purposes of this chapter from funds transferred to the 1998 State School Facilities Fund from any source.

(c) The board may make apportionments in amounts not exceeding those funds on deposit in the 1998 State School Facilities Fund, and any amount of bonds authorized by the State School Building Finance Committee, but not yet sold by the Treasurer.

(d) The board may make disbursements pursuant to any apportionment made from any funds in the 1998 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 1998 State School Facilities Fund sufficient to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

17070.43. (a) A county school facilities fund is hereby established in the county treasury within each county for each school district in the county.

(b) The board may from time to time authorize the Controller to transfer any funds that the board may deem necessary from the 1998 State School Facilities Fund to the corresponding county fund in the county treasury.



Interest on all funds deposited in the county fund shall be retained in that fund.

(c) Funds may be expended from the county fund by the recipient school district for qualifying school facilities expenditures set forth in Sections 17072.35 and 17074.25.

17070.45. This chapter shall not be construed to change the powers and duties of the State Department of Education or the Department of General Services with respect to schoolsites and the construction of school buildings as contained in Chapter 1 (commencing with Section 17211) and Chapter 3 (commencing with Section 17251) of Part 10.5.

17070.50. The board shall not apportion funds to any school district, unless the applicant school district has certified to the board that the services of any architect, structural engineer, or other design professional for any work under the project have been obtained pursuant to a competitive process that is consistent with the requirements of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code and has done either of the following:

(a) Obtained the written approval of the State Department of Education that the site selection, and the building plans and specifications, comply with the standards adopted by the department pursuant to subdivisions (b) and (c), respectively, of Section 17251.

(b) Certified to the board that it is in compliance with the standards set forth in subdivision (a).

17070.55. Upon request of any school district, the State Department of Education shall provide assistance in the evaluation and utilization of existing school facilities and the justification of the need for schoolsites, new facilities, and the rehabilitation or replacement of existing facilities, in accordance with board regulations.

17070.60. Funding decisions made by the board shall not, in themselves, make the board liable for any tort, breach of contract, or any other action for damages caused by a school district arising from new construction or modernization by the district. These contracts include, but are not limited to, contracts between the school

district and its construction contractors, construction managers, architects, or engineers. The school district shall be liable for all torts, breaches of contract, or any other actions for damages caused by the school district.

17070.63. (a) The total funding provided under this chapter shall constitute the state's full and final contribution to the project and for eligibility for state facilities funding represented by the number of unhoused pupils for which the school district is receiving the state grant. As a condition of receipt of funds, a school district shall certify that the grant amount, combined with local funds, shall be sufficient to complete the school construction project for which the grant is intended.

(b) Any funds provided to a school district under any article in this chapter may not be counted towards the local match for receipt of funds under any other article in this chapter.

(c) Any savings achieved by the district's efficient and prudent expenditure of these funds shall be retained by the district in the county fund for expenditure by the district for other high priority capital outlay purposes.

17070.65. From any moneys in the 1998 State School Facilities Fund, and approved for this purpose in the annual Budget Act, the board shall make available to the Director of General Services the amounts that the board determines necessary for the Department of General Services to provide the assistance, pursuant to this chapter, required pursuant to Section 15504 of the Government Code to facilitate the construction, modernization, reconstruction, or alteration of, or addition to, school buildings.

17070.70. (a) Title to all property acquired, constructed, or improved with funds made available under this chapter shall be held by the school district to which the board grants the funds.

(b) The applicant school district shall comply with all laws pertaining to the construction, reconstruction, or alteration of, or addition to, school buildings.

17070.75. (a) The board shall require the school district to make all necessary repairs, renewals, and



replacements to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the school district.

(b) In order to ensure compliance with subdivision (a) and to encourage school districts to maintain all buildings under their control, the board shall require an applicant school district to do all of the following prior to the approval of a project:

(1) Establish a restricted account within the school district's general fund for the exclusive purpose of providing moneys for ongoing and major maintenance of school buildings, according the highest priority to funding for the purposes set forth in subdivision (a).

(2) Agree to deposit into the account established pursuant to paragraph (1), in each fiscal year for 20 years after receipt of funds under this chapter, a minimum amount equal to or greater than 3 percent of the applicant school district's general fund budget for that fiscal year. For the 1998–99 fiscal year and the 1999–2000 fiscal year, a school district may phase in this requirement by agreeing to certify the deposit of no less than 2 percent for the 1998–99 fiscal year and no less than 2½ percent for the 1999–2000 fiscal year. Annual deposits to the fund established pursuant to paragraph (1) in excess of 2½ percent of the district general fund budget may count towards the district's required match necessary to receive apportionments from the State School Deferred Maintenance Fund pursuant to Section 39619 to the extent that funds are used for purposes that qualify for funding under that section. In addition, any district contribution to this fund may be provided in lieu of meeting the ongoing maintenance requirements pursuant to Section 17014 to the extent the funds are used for purposes established in that section. This paragraph is applicable only to the following school districts:

(A) High school districts with an average daily attendance greater than 300 pupils.

(B) Elementary school districts with an average daily attendance greater than 900 pupils.



(C) Unified school districts with an average daily attendance greater than 1,200 pupils.

(3) Certify that it has publicly approved an ongoing and major maintenance plan that outlines the use of the funds deposited, or to be deposited, pursuant to paragraph (2). The plan may provide that the district need not expend all of its annual allocation for ongoing and major maintenance in the year in which it is deposited if the cost of major maintenance requires that the allocation be carried over into another fiscal year. However, any state funds carried over into a subsequent year shall not be counted toward the annual minimum contribution by the district. A plan developed in compliance with this section shall be deemed to meet the requirements of Section 17585.

(c) A district for which paragraph (2) of subdivision (b) does not apply shall certify to the board that it can reasonably maintain its facilities with a lesser level of maintenance.

17070.80. (a) All school facilities purchased or newly constructed pursuant to this chapter for use, in whole or in part, by pupils who are individuals with exceptional needs, as defined in Section 56026, shall be designed and located on the schoolsite so as to maximize interaction between those individuals with exceptional needs and other pupils as appropriate to the needs of both.

(b) The governing board of each applicant school district and the county office of education shall ensure that school facilities for pupils who are individuals with exceptional needs are integrated with other school facilities.

(c) The State Allocation Board, after consultation with the State Department of Education and representatives from county offices of education, special education services regions, and school districts, shall develop and adopt any regulations necessary to implement this section.

(d) Notwithstanding any other provision of law, the requirement set forth in subdivision (a) may be waived,



by the Superintendent of Public Instruction, only upon compliance with the following procedure:

(1) The applicant school district or county superintendent of schools shall file a written request for waiver that documents the reasons for its inability to comply with the requirement.

(2) The State Department of Education shall verify the reasons set forth pursuant to paragraph (1), including the documentation submitted, which verification shall be completed no later than 30 days after the filing of the request for waiver with the Superintendent of Public Instruction.

(3) The Advisory Commission on Special Education, as established under Section 33590, at its first scheduled meeting following the verification conducted pursuant to paragraph (2), shall review the request for waiver, accompanying documentation, and the verification findings of the State Department of Education. No later than 15 days following the date of that meeting, the commission shall submit its written comments and recommendations regarding the request for waiver to the Superintendent of Public Instruction.

(4) The Superintendent of Public Instruction shall review the comments and recommendations submitted by the Advisory Commission on Special Education prior to approving or rejecting the request for waiver.

(5) Any request for waiver, submitted in accordance with this section, that is not rejected within 60 days of its receipt by the State Department of Education, shall be deemed approved.

17070.85. Notwithstanding any other provision of law, a lien recorded on school district property that has been imposed pursuant to Section 16019 or 17030 shall be released on the operative date of this section. The release shall conclusively protect any third party relying upon the same, and shall be acknowledged to permit recordation by the county recorder. On and after November 4, 1998, a lien may not be imposed pursuant to Section 16019 or Section 17030.

17070.90. As a part of its application, a school district shall certify that it has considered the feasibility of the joint use of land and facilities with other governmental entities in order to minimize school facilities costs. Funds provided pursuant to this chapter for growth and modernization may be used for the school portion of joint-use facilities.

17070.97. The board shall require the school district to insure against public liability or property damage in connection with any facility constructed or modernized with an apportionment under this chapter.

17070.98. A school district that does not have employees who possess adequate construction management experience may contract for the provision of construction management, and may use funds provided pursuant to Article 4 (commencing with Section 17072.10), Article 5 (commencing with Section 17072.20), and Article 7 (commencing with Section 17074.10) for the cost of those services as expressly authorized by Section 17072.35 and Section 17074.25.

Article 2. Existing School Building Capacity

17071.10. (a) The calculation determined by this article shall be made on a one-time basis, and will be used as the baseline for eligibility determinations pursuant to this chapter.

(b) Each school district that elects to participate in the new construction program pursuant to this chapter shall submit to the board a one-time report of existing school building capacity.

17071.25. (a) The existing school building capacity in the applicant school district or, where appropriate, in the attendance area, at the time of initial application shall be calculated pursuant to the following formula:

(1) Identify by grade level all permanent teaching stations existing in the school district or, where appropriate, the attendance area. For the purposes of this section, “teaching station” means any space that was constructed or reconstructed to serve as an area in which



to provide pupil instruction, but shall not include portable buildings, except as provided in Section 17071.30.

(2) The assumed capacity of each calculated teaching station pursuant to paragraph (1) shall be 25 pupils for each teaching station used for kindergarten or for grades 1 to 6, inclusive, and 27 pupils for each teaching station used for grades 7 to 12, inclusive.

(3) Multiply the assumed capacity of each teaching station as specified in paragraph (2) by the number of teaching stations calculated under paragraph (1).

(4) The result of this computation shall be the number of pupils housed by grade level in the existing school building capacity of the applicant school district.

(b) The existing school building capacity of the applicant school district calculated under this section shall not include, in any school operated on a year-round schedule, any teaching station that has been in continuous use during the preceding five-year period primarily for the operation of a preschool program or programs.

17071.30. For purposes of determining the existing school building capacity, each applicant school district shall include each portable classroom, whether owned or leased, except as otherwise provided in subdivision (a) or (b).

(a) Portable classrooms leased pursuant to Chapter 14 (commencing with Section 17085) shall be excluded from the existing school building capacity. Portable classrooms obtained by an applicant district pursuant to subdivision (b) of Section 17088.5 shall be excluded from the existing school building capacity, except as to any portable classroom or classrooms for which the district rejected the board's offer to purchase pursuant to that subdivision. Portable classrooms leased for a period of less than five years prior to the date of application shall not be included in existing school building capacity.

(b) The number of portable classrooms, reduced by the number of portable classrooms used as interim housing for modernization projects, that exceed 25 percent of the number of permanent classrooms available



to the district shall not be included in the existing building capacity.

17071.33. For the purposes of determining existing school building capacity, the calculation shall be adjusted as required for first priority status pursuant to Section 17017.7 as that calculation would have been made under the policies of the board in effect immediately preceding September 1, 1998.

17071.35. Notwithstanding any other provisions of law, the maximum school building capacity for each applicant district shall be increased by the number of pupils reported by the Superintendent of Public Instruction for that grade level pursuant to Section 42268. This adjustment shall be calculated on the basis, at the district's option, of either the district as a whole or the appropriate attendance area.

17071.40. Each school on a year-round, multitrack calendar that has a density of 200 or more pupils enrolled per acre, that is located in a school district with 40 percent of its pupils attending multitrack, year-round schools shall be exempted from the increase in school building capacity required by Section 17071.35. Nothing in this section shall be construed as exempting the school from the requirements of Section 17071.33.

Article 3. New Construction Eligibility Determination

17071.75. After a one-time initial report of existing school building capacity has been completed, a school district's ongoing eligibility for new construction funding shall be determined by making all of the following calculations:

(a) Each school district that applies to receive funding for new construction shall calculate enrollment projections for the fifth year beyond the fiscal year in which the application is made. Projected enrollment shall be determined by utilizing the cohort survival enrollment projection system, as defined and approved by the board. The board may supplement the cohort survival enrollment projection by the number of



unhoused pupils that are anticipated as a result of dwelling units proposed pursuant to approved and valid tentative subdivision maps.

(b) Add the number of pupils that may be adequately housed in the existing school building capacity of the applicant district as determined pursuant to Article 2 (commencing with Section 17071.10) to the number of pupils for which facilities were provided pursuant to this chapter after the existing school building capacity was determined pursuant to Article 2 (commencing with Section 17071.10).

(c) Subtract the number of pupils pursuant to subdivision (b) from the number of pupils determined pursuant to subdivision (a).

(d) The calculations required to establish eligibility under this article shall result in a distinction between the number of existing unhoused pupils and the number of projected unhoused pupils.

17071.76. (a) Whenever the existing school building capacity in any high school attendance area prevents another high school attendance area from receiving the maximum per-unhoused-pupil grant specified for the school district as a whole, the eligibility may be computed separately for each high school attendance area.

(b) For the purposes of eligibility, a school district may combine two or more adjacent high school attendance areas pursuant to the following conditions:

(1) The funding eligibility is for the construction of a high school, junior high school, or elementary school located or to be located in any of those high school attendance areas.

(2) The high school, junior high school, or elementary school to be constructed is to serve pupils residing in each of those high school attendance areas.

(3) The combined eligibility reflects the eligibility to which each of the high school attendance areas would otherwise be entitled, reflecting the proportion of projected pupil enrollment in the school to be constructed, as calculated under this chapter, from each of those attendance areas.



Article 4. New Construction Grant Eligibility
Determination

17072.10. (a) The board shall determine the applicant's maximum total new construction grant eligibility by multiplying the number of unhoused pupils calculated pursuant to Article 3 (commencing with Section 17071.75) in each school district with an approved application for new construction, by the per-unhoused-pupil grant as follows:

(1) Five thousand two hundred dollars (\$5,200) for elementary school pupils.

(2) Five thousand five hundred dollars (\$5,500) for middle school pupils.

(3) Seven thousand two hundred dollars (\$7,200) for high school pupils.

(b) The board shall annually adjust the per-unhoused-pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B construction as determined by the board.

(c) The board may adopt regulations to be effective until July 1, 2000, that adjust the amounts identified in this section for qualifying individuals with exceptional needs, as defined in Section 56026. The regulations shall be amended after July 1, 2000, in consideration of the recommendations provided pursuant to Section 17072.15.

(d) The board may establish a single supplemental per-unhoused-pupil grant in addition to the amounts specified in subdivision (a) based on the statewide average marginal difference in costs in instances where a project requires multilevel school facilities due to limited acreage. The district's application shall demonstrate that a practical alternative site is not available.

17072.12. In addition to the amount provided in Section 17072.10, the board may provide funding for assistance in site development and acquisition if all of the following are met:



(a) The amount of the site acquisition and development assistance does not exceed 50 percent of the cost of site development to the school district, plus the lesser of 50 percent of the site cost to the school district or 50 percent of the appraised value of the site at the time the complete application is submitted, whichever is less.

(b) The school district certifies that there is no alternative available site, or that the district plans to sell an available site in order to use the proceeds of the sale for the purchase of the new site.

17072.15. In conjunction with the State Department of Education and the Department of Finance, the Legislative Analyst shall review the method of funding the construction and modernization of school facilities for special education pupils and the amount provided per unhoused special education pupil pursuant to Sections 17072.10 and 17074.10. Pursuant to this review, the Legislative Analyst shall recommend modifications to this method that he or she deems to be advisable on or before September 1, 1999.

Article 5. New Construction Funding Process

17072.20. (a) An applicant school district that has been determined by the board to meet the eligibility requirements for new construction funding set forth in Article 2 (commencing with Section 17071.10) or Article 3 (commencing with Section 17071.75) may submit at any time a request to the board for a project apportionment for all or a portion of the funding for which the school district is eligible.

(b) The application shall include, but shall not be limited to, the school district's determination of the amount of state funding that the district is otherwise eligible for relating to site acquisition, site development, new construction, and hardship funding provided pursuant to Article 8 (commencing with Section 17075.10), if any. The amount shall be reduced by the amount of the alternative fee collected pursuant to subdivision (a) of Section 65995.7 of the Government



Code if a reimbursement election or agreement pursuant to Section 65995.7 of the Government Code is not in effect.

(c) The board shall verify and adjust, as necessary, and approve the district's application.

17072.25. (a) The board shall adopt regulations to develop a mechanism to rank approved applications for new construction funding. This mechanism shall be used to determine the priority of approved applications when state funds are insufficient.

(b) The ranking mechanism shall allocate priority points based upon the percentages of currently and projected unhoused pupils relative to the total population of the applicant district or attendance area and the total number of currently and projected unhoused pupils in an applicant district or attendance area.

(c) The board may award priority points based on other factors that in its judgment result in the most equitable distribution of resources among applicants. The additional factors may not constitute greater than a 10-percent weight in the overall priority ranking.

17072.30. Subject to the availability of funds, and to the determination of priority pursuant to Section 17072.25, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281, and certification by the school district that the required 50 percent matching funds from local sources have been expended by the district for the project, or have been deposited in the county fund, or will be expended by the district by the time the project is completed, in an amount at least equal to the proposed apportionment pursuant to this chapter, prior to release of the state funds.

17072.32. For any project that has received an apportionment pursuant to Section 17072.30, funding shall be released in amounts equal to the amount of the local match upon certification by the district that the district has entered into a binding contract for completion of the approved project.



17072.33. In the case of site acquisition, a district may request that the state's share of site assistance be provided to the district in amounts equal to the amount of the local match when the district enters escrow for a site included within a project.

17072.35. A grant for new construction may be used for any and all costs necessary to adequately house new pupils in any approved project, and those costs may only include the cost of design, engineering, testing, inspection, plan checking, construction management, site acquisition and development, demolition, construction, acquisition and installation of portable classrooms, landscaping, necessary utility costs, utility connections and other fees, equipment including telecommunication equipment to increase school security, furnishings, and the upgrading of electrical systems or the wiring or cabling of classrooms in order to accommodate educational technology. A grant for new construction may also be used to acquire an existing government or privately owned building, or a privately financed school building, and for the necessary costs of converting the government or privately owned building for public school use.

Article 6. Modernization Eligibility Determination

17073.10. Each school district that desires to receive an apportionment for modernization under this chapter shall submit an application in a form, and in the number of copies, that the board may require.

17073.15. A school district shall be eligible to receive an apportionment for modernization of permanent school buildings that are more than 25 years old , or in the case of portable classrooms that are at least 20 years old, and that have not been previously modernized with state funding.

17073.20. Funding may be approved for the modernization of any permanent school building that is more than 25 years old, or, in the case of any portable classroom that is more than 20 years old, as described in



Section 17071.30, and that prior to November 4, 1998, had not been previously modernized with state funding.

Article 7. Modernization Apportionment

17074.10. (a) The board shall determine the total funding eligibility of a school district for modernization funding by multiplying the following amounts by each pupil of that grade level housed in permanent school buildings that are at least 25 years old or portable classrooms that are at least 20 years old, and that have not been previously modernized with state funding:

(1) Two thousand two hundred forty-six dollars (\$2,246) for each elementary pupil.

(2) Two thousand three hundred seventy-six dollars (\$2,376) for each middle school pupil.

(3) Three thousand one hundred ten dollars (\$3,110) for each high school pupil.

(b) The board shall annually adjust the factors set forth in subdivision (a) according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the board.

(c) The board may adopt regulations to be effective until July 1, 2000, that adjust the amounts identified in this section for qualifying individuals with exceptional needs, as defined in Section 56026. The regulations shall be amended after July 1, 2000, in consideration of the recommendations provided pursuant to Section 17072.15.

(d) It is the intent of the Legislature that the amounts provided pursuant to this article for school modernization do not include funding for administrative and overhead costs.

17074.15. The board shall release disbursements to school districts with approved applications for modernization, to the extent state funds are available for the state's 80-percent share, and the school district has provided its 20-percent local match. Subject to the availability of funds, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant

to the Field Act, as defined in Section 17281, and evidence that the certification by the school district that the required 20 percent matching funds from local sources have been expended by the district for the project, or have been deposited in the county fund or will be expended by the district by the time of completion of the project, and evidence that the district has entered into a binding contract for the completion of that project. If state funds are insufficient to fund all qualifying school districts, the board shall fund all qualifying school districts in the order in which the application for funding was approved by the board.

17074.20. As a condition for the receipt of funds under this article, a school district shall ensure that all buildings modernized comply with Sections 17212, 17212.5, and 17213.

17074.25. A modernization apportionment may be used for an improvement to extend the useful life of, or to enhance the physical environment of, the school. The improvement may only include the cost of design, engineering, testing, inspection, plan checking, construction management, demolition, construction, the replacement of portable classrooms, necessary utility costs, utility connection and other fees, the purchase and installation of air-conditioning equipment and insulation materials and related costs, furniture and equipment, including telecommunication equipment to increase school security, fire safety improvements, playground safety improvements, the identification, assessment, or abatement of hazardous asbestos, seismic safety improvements, and the upgrading of electrical systems or the wiring or cabling of classrooms in order to accommodate educational technology. A modernization grant may not be used for costs associated with acquisition and development of real estate or for routine maintenance and repair.



Article 8. Hardship Application

17075.10. (a) A school district may apply for hardship assistance in cases of extraordinary circumstances.

(b) A school district applying for hardship state funding under this article shall comply with either paragraph (1) or (2).

(1) Demonstrate both of the following:

(A) That due to extreme financial, disaster-related, or other hardship the school district has unmet need for pupil housing.

(B) That the school district is not financially capable of providing the matching funds otherwise required for state participation, that the district has made all reasonable efforts to impose all levels of local debt capacity and development fees, and that the school district is, therefore, unable to participate in the program pursuant to this chapter except as set forth in this article.

(2) Demonstrate that due to unusual circumstances that are beyond the control of the district, excessive costs need to be incurred in the construction of school facilities.

17075.15. (a) From funds available from any bond act for the purpose of funding facilities for school districts with a financial hardship, the board may provide other construction, modernization, or relocation assistance as set forth in this chapter or Chapter 14 (commencing with Section 17085) to the extent that severe circumstances may require, and may adjust or defer the local financial participation, as pupil health and safety considerations require to the extent that bond act funds are provided for this purpose.

(b) The board shall adopt regulations for determining the amount of funding that may be provided to a district, and the eligibility and prioritization of funding, under this article.

(1) The regulations shall include a method for determining the amount, and sources, of financing that the school district could reasonably provide for school facilities. Further, the regulations shall also specify a



method for determining required levels of local effort to obtain matching funds.

(2) The value of any unused local general obligation debt capacity and developer fees added to the needs analysis to reflect the district's financial hardship, available for the purposes of school facilities financing shall be considered when evaluating available resources for the purposes of the determination described in paragraph (1).

Article 9. Program Accountability

17076.10. (a) A school district that has received any funds pursuant to this chapter shall submit a summary report of expenditure of state funds and of district matching funds annually until all state funds and district matching funds are expended, and shall then submit a final report to the board. The board may require an audit of these reports or other district records to ensure that all funds received pursuant to this chapter are expended in accordance with program requirements.

(b) If the board finds that a participating school district has made no substantial progress towards increasing its pupil capacity or renovating its facilities within 18 months of the receipt of any funding pursuant to this chapter, the board shall rescind the apportionment in an amount equal to the unexpended funds.

(c) If the board, after the review of expenditures or audit has been conducted pursuant to subdivision (a), determines that a school district failed to expend funds in accordance with this chapter, the department shall notify the school district of the amount that must be repaid to the 1998 State School Facilities Fund within 60 days. If the school district fails to make the required payment within 60 days, the department shall notify the Controller and the school district in writing, and the Controller shall deduct an amount equal to the amount received by the school district under this subdivision, from the school district's next principal apportionment or apportionments of state funds to the school district, other



than basic aid apportionments required by Section 6 of Article IX of the California Constitution. Any amounts obtained by the Controller shall be deposited into the 1998 State School Facilities Fund.

(d) If a school district has received an apportionment, but has not met the criteria to have funds released pursuant to Section 17072.32 or 17074.15 within 18 months, the board shall rescind the apportionment and deny the district's application.

SEC. 5. Section 17260 of the Education Code is amended to read:

17260. As used in this article "school buildings" shall have the same meaning as in Section 17283.

SEC. 6. Section 17261 of the Education Code is repealed.

SEC. 7. Section 17261 is added to the Education Code, to read:

17261. The State Allocation Board shall obtain construction plans for school buildings appropriate for school districts in various climates and geographical conditions of the state. The plans shall be composed of plans designed to meet the needs of school districts requiring school buildings of various sizes. The plans may include landscape suggestions.

SEC. 8. Section 17262 of the Education Code is amended to read:

17262. Any school district may request sets of the plans and specifications obtained by the State Allocation Board as appropriate for use in constructing a school building of the type desired by the district. The plans and specifications shall be furnished to the school district subject to the payment by the school district of the actual expense incurred by the State Allocation Board, but that payment shall not exceed more than 2 percent of the total cost of the project. Any payments received for the plans and specifications shall be paid into the 1998 State School Facilities Fund.

SEC. 9. Section 17303 of the Education Code is amended to read:



17303. (a) The Department of General Services shall establish one or more methods to ensure that each application has been completed sufficiently by the applicant to enable the plan review to be performed.

(b) Upon receipt of a complete application, the Department of General Services shall inform the applicant of the period of time that it anticipates to elapse prior to commencing review of the applicant's plans. Within 10 days of being so notified, the applicant shall make an election to either use the Department of General Services for the review of the applicant's plan or, request the plan review be performed by one or more qualified plan review firms pursuant to Sections 17305 and 17306. If the applicant elects to use the services of the Department of General Services for review of the applicant's plan, the department, as necessary to expedite review of the applicant's plans, shall do one or more of the following:

(1) Contract for assistance from one or more qualified plan review firms pursuant to Section 17305.

(2) Employ additional staff on a temporary basis.

(3) Maximize the use of department staff through the use of overtime or other appropriate means.

(4) Any other action determined by the department to have the effect of expediting the review and approval process.

(c) Each application shall identify, for purposes of receiving the notifications required under this subdivision, an employee of the applicant school district and either the applicant's architect or structural engineer. The Department of General Services immediately shall notify that employee, and the identified architect or structural engineer, when each of the following steps in the plan review process occurs:

(1) The department requests the applicant's architect or structural engineer to correct or complete any part of the application.

(2) An application number is assigned to the application.

(3) Review of the applicant's plans is commenced.



(4) Review of the applicant's plans is completed and the department returns the plans to the architect or structural engineer for correction.

(5) Corrected plans are returned to the department by the applicant's architect or structural engineer for final review and approval.

(6) The department approves the plans and causes a final record set of the plans to be printed in accordance with Section 17304.

(d) The Department of General Services may provide additional notifications to applicants as it deems necessary.

SEC. 10. Section 17305 of the Education Code is amended to read:

17305. (a) Notwithstanding Section 14952 of the Government Code, the Department of General Services shall contract with a sufficient number of qualified plan review firms for assistance in performing the plan review required under this article or Article 5 (commencing with Section 17350).

(b) For purposes of this article, "qualified plan review firm" means an individual, firm, or the building official of a city, a county, or a city and county, as defined in Section 18949.27 of the Health and Safety Code or the authorized representative of the building official that is identified by the Department of General Services as having appropriate expertise and knowledge of the requirements that apply to school buildings under this article. The department shall establish and maintain a list of the individuals and firms, and building officials or the authorized representatives of building officials so identified, and shall make that list available, upon request, to school districts and other interested parties.

SEC. 11. Section 17306 of the Education Code is amended to read:

17306. (a) Upon submitting a complete application for review under this article, the applicant may request that the Department of General Services refer the documents necessary for the review of that application to a qualified plan review firm operating under contract



with the department pursuant to Section 17305. The department immediately shall grant the request and refer the necessary documents to a qualified plan review firm if the applicant so requests.

Upon completing the review, the qualified plan review firm shall submit the documents referred to it for the review of the application, together with the results of its review, to the Department of General Services.

(b) The Department of General Services shall establish a procedure governing the use by applicants of the review process alternative described in this section, including, but not limited to, provisions restricting the use of qualified plan review firms on the basis of conflict of interest.

SEC. 12. Section 17620 of the Education Code is amended to read:

17620. (a) (1) The governing board of any school district is authorized to levy a fee, charge, dedication, or other requirement against any construction within the boundaries of the district, for the purpose of funding the construction or reconstruction of school facilities, subject to any limitations set forth in Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code. This fee, charge, dedication, or other requirement may be applied to construction only as follows:

(A) To new commercial and industrial construction. The chargeable covered and enclosed space of commercial or industrial construction shall not be deemed to include the square footage of any structure existing on the site of that construction as of the date the first building permit is issued for any portion of that construction.

(B) To new residential construction.

(C) To other residential construction, only if the resulting increase in assessable space exceeds 500 square feet. The calculation of the “resulting increase in assessable space” for this purpose shall reflect any decrease in assessable space in the same residential structure that also results from that construction. Where



authorized under this paragraph, the fee, charge, dedication, or other requirement is applicable to the total resulting increase in assessable space.

(D) To location, installation, or occupancy of manufactured homes and mobilehomes, as defined in Section 17625.

(2) For purposes of this section, “construction” and “assessable space” have the same meaning as defined in Section 65995 of the Government Code.

(3) For purposes of this section and Section 65995, “construction or reconstruction of school facilities” does not include any item of expenditure for any of the following:

(A) The regular maintenance or routine repair of school buildings and facilities.

(B) The inspection, sampling, analysis, encapsulation, or removal of asbestos-containing materials, except where incidental to school facilities construction or reconstruction for which the expenditure of fees or other consideration collected pursuant to this section is not prohibited.

(C) The purposes of deferred maintenance described in Section 17582.

(4) The appropriate city or county may be authorized, pursuant to contractual agreement with the governing board, to collect and otherwise administer, on behalf of the school district, any fee, charge, dedication, or other requirement levied under this subdivision. In the event of any agreement authorizing a city or county to collect that fee, charge, dedication, or other requirement in any area within the school district, the certification requirement set forth in subdivision (b) or (c), as appropriate, is deemed to be complied with as to any residential construction within that area upon receipt by that city or county of payment of the fee, charge, dedication, or other requirement imposed on that residential construction.

(5) Fees or other consideration collected pursuant to this section may be expended by a school district for the costs of performing any study or otherwise making the



findings and determinations required under subdivisions (a), (b), and (d) of Section 66001 of the Government Code, or in preparing the school facilities needs analysis described in Section 65995.6 of the Government Code. In addition, an amount not to exceed, in any fiscal year, 3 percent of the fees collected in that fiscal year pursuant to this section may be retained by the school district, city, or county, as appropriate, for reimbursement of the administrative costs incurred by that entity in collecting the fees. When any city or county is entitled, under an agreement as described in paragraph (4), to compensation in excess of that amount, the payment of that excess compensation shall be made from other revenue sources available to the school district. For purposes of this paragraph, “fees collected in that fiscal year pursuant to this section” does not include any amount in addition to the amounts specified in paragraphs (1) and (2) of subdivision (b) of Section 65995 of the Government Code.

(b) A city or county, whether general law or chartered, may not issue a building permit for any construction absent certification by the appropriate school district that any fee, charge, dedication, or other requirement levied by the governing board of that school district has been complied with, or of the district’s determination that the fee, charge, dedication, or other requirement does not apply to the construction. The school district shall issue the certification immediately upon compliance with the fee, charge, dedication, or other requirement.

(c) If, pursuant to subdivision (c) of Section 17621, the governing board specifies that the fee, charge, dedication, or other requirement levied under subdivision (a) is subject to the restriction set forth in subdivision (a) of Section 66007 of the Government Code, the restriction set forth in subdivision (b) of this section does not apply. In that event, however, a city or county, whether general law or chartered, may not conduct a final inspection or issue a certificate of occupancy, whichever is later, for any residential construction absent



certification by the appropriate school district of compliance by that residential construction with any fee, charge, dedication, or other requirement levied by the governing board of that school district pursuant to subdivision (a).

(d) Neither subdivision (b) nor (c) shall apply to a city or county as to any fee, charge, dedication, or other requirement as described in subdivision (a), or as to any increase in that fee, charge, dedication, or other requirement, except upon the receipt by that city or county of notification of the adoption of, or increase in, the fee or other requirement in accordance with subdivision (c) of Section 17621.

SEC. 13. Section 81134 is added to the Education Code, to read:

81134. (a) The Department of General Services shall establish one or more methods to ensure that each application has been completed sufficiently by the applicant to enable the plan review to be performed.

(b) Upon receipt of a complete application, the Department of General Services shall inform the applicant of the period of time that it anticipates to elapse prior to commencing review of the applicant's plans. Within 10 days of being so notified, the applicant shall make an election to either use the Department of General Services for the review of the applicant's plans or, request the plan review be performed by one or more qualified plan review firms pursuant to Sections 81135 and 81136. If the applicant elects to use the services of the Department of General Services for review of the applicant's plans, the department shall, as necessary to expedite review of the applicant's plans do one or more of the following:

(1) Contract for assistance from one or more qualified plan review firms pursuant to Sections 81135 and 81136.

(2) Employ additional staff on a temporary basis.

(3) Maximize the use of department staff through the use of overtime or other appropriate means.



(4) Any other action determined by the department to have the effect of expediting the review and approval process.

(c) Each application shall identify, for purposes of receiving the notifications required under this subdivision, an employee of the applicant community college district and either the applicant's architect or structural engineer. The Department of General Services immediately shall notify that employee, and the identified architect or structural engineer, when each of the following steps in the plan review process occurs:

(1) The department requests the applicant's architect or structural engineer to correct or complete any part of the application.

(2) An application number is assigned to the application.

(3) Review of the applicant's plans is commenced.

(4) Review of the applicant's plans is completed and the department returns the plans to the architect or structural engineer for correction.

(5) Corrected plans are returned to the department by the applicant's architect or structural engineer for final review and approval.

(6) The department approves the plans and causes a final record set of the plans to be printed in accordance with Section 17304.

(d) The Department of General Services may provide additional notifications to applicants as it deems necessary.

SEC. 14. Section 81135 is added to the Education Code, to read:

81135. (a) Notwithstanding Section 14952 of the Government Code, the Department of General Services shall contract with sufficient numbers of qualified plan review firms for assistance in performing the plan review required under this article or Article 5 (commencing with Section 17350).

(b) For purposes of this article, "qualified plan review firm" means an individual, firm, or the building official of a city, county, or city and county, as defined in Section

18949.27 of the Health and Safety Code or the authorized representative of that building official that is identified by the Department of General Services as having appropriate expertise and knowledge of the requirements that apply to school buildings under this article. The department shall establish and maintain a list of the individuals firms, and building officials or the authorized representatives of building officials so identified, and shall make that list available, upon request, to community college districts and other interested parties.

SEC. 15. Section 81136 is added to the Education Code, to read:

81136. (a) Upon submitting a complete application for review under this article, the applicant may request that the Department of General Services refer the documents necessary for the review of that application to a qualified plan review firm operating under contract with the department pursuant to Section 81135. The department immediately shall grant the request and refer the necessary documents to a qualified plan review firm if the applicant so requests. Upon completing the review, the qualified plan review firm shall submit the documents referred to it for the review of the application, together with the results of its review, to the Department of General Services.

(b) The Department of General Services shall establish a procedure governing the use by applicants of the review process alternative described in this section, including, but not limited to, provisions restricting the use of qualified plan review firms on the basis of conflict of interest.

SEC. 16. Part 68 (commencing with Section 100400) is added to the Education Code, to read:

PART 68. PUBLIC EDUCATION BONDS

CHAPTER 1. CLASS SIZE REDUCTION KINDERGARTEN-UNIVERSITY PUBLIC EDUCATION FACILITIES



BOND ACT OF 1998

100400. This part shall be known and may be cited as the Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998.

100401. The incorporation of, or reference to, any provisions of California statutory law in this part includes all acts amendatory thereof and supplementary thereto.

100403. (a) Bonds in the total amount of nine billion two hundred million dollars (\$9,200,000,000), not including the amount of any refunding bonds issued in accordance with Chapter 2 (commencing with Section 100410) and Chapter 3 (commencing with Section 100450), or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this part and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established by Section 15909 and the Higher Education Facilities Finance Committee established pursuant to Section 67353 at any different times necessary to service expenditures required by the apportionments.

100405. For purposes of this part, “Chapter 12” means Chapter 12 (commencing with Section 17000) of Part 10 and “Chapter 12.5” means Chapter 12.5 (commencing with Section 17070.10) of Part 10.



CHAPTER 2. KINDERGARTEN THROUGH 12TH GRADE

Article 1. Kindergarten Through 12th Grade School
Facilities Program Provisions

100410. (a) Three billion three hundred fifty million dollars (\$3,350,000,000) of the proceeds of bonds issued and sold pursuant to this part shall be deposited in the 1998 State School Facilities Fund, which is established by Section 17070.40, and allocated by the State Allocation Board pursuant to this chapter. Before requesting the sale of bonds pursuant to Section 100432 for deposit in the State School Facilities Fund, the State Allocation Board shall request, pursuant to Section 100432, the sale of bonds sufficient to finance all projects for which application was made pursuant to the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 12 (commencing with Section 17000) of Part 10) and for which an application was approved for construction, but funding was not available, prior to November 4, 1998.

(b) In addition to the amount specified in subdivision (a), three billion three hundred fifty million dollars (\$3,350,000,000) of the bonds authorized by this chapter shall only be issued and sold pursuant to this chapter on or after July 1, 2000, and the proceeds of those bonds shall be deposited in the 1998 State School Facilities Fund and allocated by the State Allocation Board pursuant to this chapter.

100415. (a) All moneys deposited in the 1998 State School Facilities Fund pursuant to this chapter shall be available and, notwithstanding any other provision of law to the contrary, are hereby appropriated to provide aid to school districts of the state in accordance with the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 12 (commencing with Section 17000) of Part 10) and in accordance with the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10), to provide aid to school districts, county superintendents of schools, and county boards of education of the state in

accordance with Section 100420, to provide funds to repay any money advanced or loaned to the 1998 State School Facilities Fund under any act of the Legislature, together with interest provided for in that act, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

(b) The bonds issued and sold pursuant to this chapter shall fund kindergarten and grades 1 through 12, inclusive, school constructions for a four-year period.

100420. (a) Of the proceeds from the sale of bonds, issued and sold pursuant to this chapter, as specified in subdivision (a) of Section 100410, not more than three billion three hundred fifty million dollars (\$3,350,000,000) shall be allocated beginning in the 1998–99 fiscal year in accordance with the following schedule:

(1) Not less than one billion three hundred fifty million dollars (\$1,350,000,000) for project funding related to the growth in enrollment of applicant school districts under Chapter 12 and Chapter 12.5 that have incurred or will incur enrollment increases.

(2) Not less than eight hundred million dollars (\$800,000,000) for the reconstruction or modernization of facilities pursuant to Chapter 12 and Chapter 12.5.

(3) Not more than five hundred million dollars (\$500,000,000) shall be deposited in the Public School Critical Hardship Account, which is hereby established in the 1998 State School Facilities Fund and shall be allocated by the State Allocation Board to fund critical hardships as defined in Chapter 12.5. These funds may be expended for the acquisition of portable classrooms for use in accordance with Chapter 14 (commencing with Section 17085) of Part 10.

(4) (A) Not more than seven hundred million dollars (\$700,000,000) may be allocated to assist school districts with site acquisition and facilities-related costs of kindergarten and grades 1 to 3, inclusive, that are in the Class Size Reduction Program contained in Chapter 6.10 (commencing with Section 52120) of Part 28 and Chapter 19 (commencing with Section 17200) of Part 10, and to assist districts with the restoration of facilities that



previously accommodated other programs and were displaced as a result of the implementation of class size reduction. On and after July 1, 2000, if applications for the total funds available under this paragraph have not been filed with the State Allocation Board, the funds for which applications have not been received may be allocated by the board to other high priority needs as the board determines. On and after July 1, 2003, any funds not allocated are available for other high priority needs.

(B) The funds allocated in subparagraph (A) shall be allocated to the State Department of Education to provide class size reduction facilities grants necessary to implement the K-3 Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28 and Chapter 19 (commencing with Section 17200) of Part 10. The department shall certify to the State Allocation Board the amount of funds needed for this purpose. The board shall transfer the amount of funds needed to the department. From these funds, the department shall award eligible districts forty thousand dollars (\$40,000) for each new option one class established for class size reduction for which the district had not previously received funding under class size reduction facilities programs.

(C) The remaining funds provided pursuant to subparagraph (A) shall be to provide funding for schoolsites that were eligible to receive a class size reduction land-locked waiver pursuant to Section 52122.6. The funds may be provided to districts to provide 50 percent of the cost of funding a facilities mitigation plan developed for the impacted site pursuant to Section 52122.7.

(D) Any funds not expended pursuant to subparagraphs (A), (B), or (C) shall be allocated to districts that request funding of forty thousand dollars (\$40,000) for each teaching station that (1) was displaced as a result of the implementation of class size reduction and (2) received less than forty thousand dollars (\$40,000) per teaching station in 1996–97 pursuant to Chapter 19 (commencing with Section 17200) of Part 10.



Programs for which teaching stations may be restored may include child care, extended day care, school libraries, computer labs, and special education classrooms.

(b) Of the proceeds from the sale of bonds issued and sold pursuant to this chapter, as specified in subdivision (b) of Section 100410, not more than three billion three hundred fifty million dollars (\$3,350,000,000) shall be allocated beginning in the 2000–01 fiscal year in accordance with the following schedule:

(1) Not less than one billion five hundred fifty million dollars (\$1,550,000,000) for project funding related to the growth in enrollment of applicant school districts under Chapter 12.5 that have incurred or will incur enrollment increases.

(2) Not less than one billion three hundred million dollars (\$1,300,000,000) for the reconstruction or modernization of facilities pursuant to Chapter 12.5.

(3) Not more than five hundred million dollars (\$500,000,000) shall be deposited in the Public School Critical Hardship Account in the 1998 State School Facilities Fund and shall be allocated by the State Allocation Board to fund critical hardships as defined in Chapter 12.5. These funds may be expended for the acquisition of portable classrooms for use in accordance with Chapter 14 (commencing with Section 17085) of Part 10.

(c) Districts may use funds allocated pursuant to paragraph (2) of subdivision (a) and paragraph (2) of subdivision (b) for one or more of the following purposes in accordance with Chapter 12.5:

(1) The purchase and installation of air-conditioning equipment and insulation materials, and related costs.

(2) Construction projects or the purchase of furniture or equipment designed to increase school security or playground safety.

(3) The identification, assessment, or abatement in school facilities of hazardous asbestos.

(4) Project funding for high priority roof replacement projects.

(5) Any other renovation or modernization of facilities pursuant to Chapter 12.5.

(d) Funds allocated pursuant to paragraph (1) of subdivision (a) and paragraph (1) of subdivision (b) may be utilized to provide new construction grants, without regard to funding priorities, for applicant county boards of education under Chapter 12.5 that are eligible for that funding or classrooms for severely handicapped pupils and funding for classrooms for county community school pupils.

(e) (1) The Legislature may amend this section to adjust the minimum funding amounts specified in paragraphs (1) and (2) of subdivision (a) and the maximum funding amounts specified in paragraphs (3) and (4) of subdivision (a), and to adjust the minimum funding amounts specified in paragraphs (1) and (2) of subdivision (b) and the maximum funding amount specified in paragraph (3) of subdivision (b), by either of the following methods:

(A) By a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this chapter.

(B) By a statute that becomes effective only when approved by the voters.

(2) Amendments pursuant to this subdivision may adjust the amounts to be expended pursuant to paragraphs (1) to (4), inclusive, of subdivision (a) or paragraphs (1) to (3), inclusive, of subdivision (b) or both, but may not increase or decrease the total amount to be expended pursuant to either subdivision.

Article 2. Kindergarten Through 12th Grade School Facilities Fiscal Provisions

100425. (a) Bonds in the total amount of six billion seven hundred million dollars (\$6,700,000,000), not including the amount of any refunding bonds issued in accordance with Section 100444, or so much thereof as is



necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established pursuant to Section 15909 at any different times necessary to service expenditures required by the apportionments.

100427. The State School Building Finance Committee, established by Section 15909 and composed of the Governor, the Controller, the Treasurer, the Director of Finance, and the Superintendent of Public Instruction, or their designated representatives, all of whom shall serve thereon without compensation, and a majority of whom shall constitute a quorum, is continued in existence for the purpose of this chapter. The Treasurer shall serve as chairperson of the committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker of the Assembly, shall meet with and provide advice to the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, the Members of the Legislature shall constitute an interim investigating committee on the subject of this chapter and, as that committee, shall have the powers and duties imposed upon those committees by the Joint Rules of the Senate and the Assembly. The Director of Finance shall provide the assistance to the committee as it may require. The Attorney General of the state is the legal adviser of the committee.



100430. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727 of the Government Code, apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(b) For purposes of the State General Obligation Bond Law, the State Allocation Board is designated the “board” for purposes of administering the 1998 State School Facilities Fund.

100432. Upon request of the State Allocation Board from time to time, supported by a statement of the apportionments made and to be made for the purposes described in Sections 100415 and 100420, the State School Building Finance Committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to fund the apportionments and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to fund those apportionments progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

100434. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

100435. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:



(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 100440, appropriated without regard to fiscal years.

100436. The State Allocation Board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

100438. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

100440. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the State School Building Finance Committee to be sold

for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the 1998 State School Facilities Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

100442. All money deposited in the 1998 State School Facilities Fund, that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

100444. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

100446. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

CHAPTER 3. HIGHER EDUCATION FACILITIES

Article 1. Program Provision

100450. The Legislature finds and declares all of the following:

(a) California’s economic and social prosperity relies on a higher education system that keeps pace with California’s growth. In the coming decades, the state’s economic prosperity will depend on increasing the



productivity of the work force and on the ability to compete successfully in the world marketplace.

(b) The system of public higher education in this state includes the University of California, the Hastings College of the Law, the California State University, the California Community Colleges, and their respective off-campus centers. Each of these institutions plays a vital role in maintaining California's dominance in higher education in the United States.

(c) Over the last several years, studies have been completed by the California Postsecondary Education Commission, the University of California, the California State University, and the California Community Colleges to assess their long-term and short-term capital needs. Those studies demonstrate that the long-term and short-term needs total, in the aggregate, seven hundred fifty million dollars (\$750,000,000) per year into the next century.

(d) Proceeds from the sale of bonds issued and sold pursuant to this chapter may be used to fund construction on existing or new campuses and off-campus centers, including the construction of buildings and the acquisition of related fixtures, the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings at the University of California, the Hastings College of the Law, the California State University and the California Community Colleges.

(e) The purposes of this article include assisting in meeting the capital outlay financing needs of California's public higher education system.

100455. (a) Two billion five hundred million dollars (\$2,500,000,000) of the proceeds of bonds issued and sold pursuant to this part shall be deposited in the 1998 Higher Education Capital Outlay Bond Fund which is hereby established in the State Treasury. These funds shall be available for expenditure when appropriated.



(b) One billion two hundred fifty million dollars (\$1,250,000,000) of the bonds described in subdivision (a), shall only be issued and sold pursuant to this chapter on or after July 1, 2000.

100457. (a) Of the amount of bonds issued and sold pursuant to subdivision (b) of Section 100455, one hundred sixty-five million dollars (\$165,000,000) shall be allocated in the 2000–01 fiscal year to be available only for the following purposes:

(1) The development of new campuses of the University of California.

(2) The development of new campuses, small campuses with enrollments of less than 5,000 full-time equivalent students, and off-campus centers at the California State University and the California Community Colleges.

(b) The amount of the allocation of funds required pursuant to this section for the development of new campuses may be reduced by a future legislative act if the Legislature finds that state funds have been provided from sources other than the proceeds of bonds for capital outlay costs. The reduction shall be limited to the amount actually provided from sources other than bond proceeds.

100460. The Higher Education Facilities Finance Committee established pursuant to Section 67353 is hereby authorized to create a debt or debts, liability or liabilities, of the State of California pursuant to this chapter for the purpose of providing funds to aid the University of California, the Hastings College of the Law, the California State University, and the California Community Colleges.

Article 2. Higher Education Fiscal Provisions

100500. (a) Bonds in the total amount of two billion five hundred million dollars (\$2,500,000,000), not including the amount of any refunding bonds issued in accordance with Section 100555, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this



chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the Higher Education Facilities Finance Committee established pursuant to Section 67353 at any different times necessary to service expenditures required by the apportionments.

100510. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727 of the Government Code, apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(b) For the purposes of the State General Obligation Bond Law, each state agency administering an appropriation of the 1998 Higher Education Capital Outlay Bond Fund is designated as the “board” for projects funded pursuant to this chapter.

(c) The proceeds of the bonds issued and sold pursuant to this chapter shall be available for the purpose of funding aid to the University of California, the Hastings College of the Law, the California State University, and the California Community Colleges, for the construction on existing or new campuses, and their respective off-campus centers, including the construction of buildings and the acquisition of related fixtures, renovation, and reconstruction of facilities, for the acquisition of sites upon which these facilities are to be constructed, for the equipping of new, renovated, or reconstructed facilities, which equipment shall have a useful life of at least 10 years, to provide funds for



payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings.

100520. The Higher Education Facilities Finance Committee established pursuant to Section 67353 shall authorize the issuance of bonds under this chapter only to the extent necessary to fund the apportionments for the purposes described in this chapter that are expressly authorized by the Legislature in the annual Budget Act. Pursuant to that legislative direction, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the purposes described in this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

100525. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

100530. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 100545, appropriated without regard to fiscal years.

100535. The board, as defined in subdivision (b) of Section 100510, may request the Pooled Money Investment Board to make a loan from the Pooled Money



Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board, as defined in subdivision (b) of Section 100510, shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

100540. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

100545. (a) For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the Higher Education Facilities Finance Committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the 1998 Higher Education Capital Outlay Bond Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment



Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

(b) Any request forwarded to the Legislature and the Department of Finance for funds from this bond issue for expenditure for the purposes described in this chapter by the University of California, the California State University, or the California Community Colleges shall be accompanied by the five-year capital outlay plan. Requests forwarded by a university or college shall include a schedule that prioritizes the seismic retrofitting needed to significantly reduce, by the 2002–03 fiscal year, in the judgment of the particular university or college, seismic hazards in buildings identified as high priority by the university or college. Requests forwarded by the California Community Colleges shall be accompanied by a five-year capital outlay plan reflecting the needs and priorities of the community college system, prioritized on a statewide basis.

100550. All money deposited in the 1998 Higher Education Capital Outlay Bond Fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

100555. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

100560. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.



SEC. 17. Section 1003 of the Elections Code is amended to read:

1003. This chapter shall not apply to the following:

- (a) Any special election called by the Governor.
- (b) Elections held in chartered cities or chartered counties in which the charter provisions are inconsistent with this chapter.
- (c) School governing board elections consolidated pursuant to Section 5006 of the Education Code or initiated by petition pursuant to Section 5091 of the Education Code.
- (d) Elections of any kind required or permitted to be held by a school district located in a chartered city or county when the election is consolidated with a regular city or county election held in a jurisdiction that includes 95 percent or more of the school district's population.
- (e) County, municipal, district, and school district initiative, referendum, or recall elections.
- (f) Any election conducted solely by mailed ballot pursuant to Division 4 (commencing with Section 4000).
- (g) Elections held pursuant to Article 1 (commencing with Section 15100) of Chapter 1 of Part 10 of the Education Code.

SEC. 18. Section 4420.5 is added to the Government Code, to read:

4420.5. (a) Subdivision (b) of Section 4420 shall not apply to any construction or renovation project undertaken by a school district.

(b) The district may use owner-controlled or wrap-up insurance with regard to a construction or renovation project if the district makes the following determinations:

(1) Prospective bidders, including contractors and subcontractors, meet minimum occupational safety and health qualifications established to bid on the project. The evaluation of prospective bidders shall be based on consideration of the following factors:

(A) Serious and willful violations of Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, by a contractor or subcontractor during the past five-year period.



(B) The contractor's or subcontractor's workers' compensation experience modification factor.

(C) A contractor's or subcontractor's injury prevention program instituted pursuant to Section 3201.5 or 6401.7 of the Labor Code.

(2) The use of owner-controlled or wrap-up insurance will maximize the expenditure of public funds on the project in conjunction with the exercise of appropriate risk management.

(c) For purposes of this section, "owner-controlled or wrap-up insurance" means a series of insurance policies issued to cover all of the contractors and subcontractors on a given project for purposes of general liability and workers' compensation.

(d) Any use of owner-controlled or wrap-up insurance pursuant to this section shall be subject to subparagraphs (B), (C), (D), and (E) of paragraph (1) of subdivision (d) of Section 4420 and paragraphs (2) and (3) of that subdivision.

SEC. 19. Section 65995 of the Government Code is amended to read:

65995. (a) Except for a fee, charge, dedication, or other requirement authorized under Section 17620 of the Education Code, or pursuant to Chapter 4.7 (commencing with Section 65970), a fee, charge, dedication, or other requirement for the construction or reconstruction of school facilities may not be levied or imposed in connection with, or made a condition of, any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization, as defined in Section 56021 or 56073.

(b) Except as provided in Sections 65995.5 and 65995.7, the amount of any fees, charges, dedications, or other requirements authorized under Section 17620 of the Education Code, or pursuant to Chapter 4.7 (commencing with Section 65970), or both, may not exceed the following:



(1) In the case of residential construction, including the location, installation, or occupancy of manufactured homes and mobilehomes, one dollar and ninety-three cents (\$1.93) per square foot of assessable space. “Assessable space,” for this purpose, means all of the square footage within the perimeter of a residential structure, not including any carport, walkway, garage, overhang, patio, enclosed patio, detached accessory structure, or similar area. The amount of the square footage within the perimeter of a residential structure shall be calculated by the building department of the city or county issuing the building permit, in accordance with the standard practice of that city or county in calculating structural perimeters. “Manufactured home” and “mobilehome” have the meanings set forth in subdivision (f) of Section 17625 of the Education Code. The application of any fee, charge, dedication, or other form of requirement to the location, installation, or occupancy of manufactured homes and mobilehomes is subject to Section 17625 of the Education Code.

(2) In the case of any commercial or industrial construction, thirty-one cents (\$0.31) per square foot of chargeable covered and enclosed space. “Chargeable covered and enclosed space,” for this purpose, means the covered and enclosed space determined to be within the perimeter of a commercial or industrial structure, not including any storage areas incidental to the principal use of the construction, garage, parking structure, unenclosed walkway, or utility or disposal area. The determination of the chargeable covered and enclosed space within the perimeter of a commercial or industrial structure shall be made by the building department of the city or county issuing the building permit, in accordance with the building standards of that city or county.

(3) The amount of the limits set forth in paragraphs (1) and (2) shall be increased in 2000, and every two years thereafter, according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January



meeting, which increase shall be effective as of the date of that meeting.

(c) (1) Notwithstanding any other provision of law, during the term of a contract entered into between a subdivider or builder and a school district, city, county, or city and county, whether general law or chartered, on or before January 1, 1987, that requires the payment of a fee, charge, or dedication for the construction of school facilities as a condition to the approval of residential construction, neither Section 17620 of the Education Code nor this chapter applies to that residential construction.

(2) Notwithstanding any other provision of state or local law, construction that is subject to a contract entered into between a person and a school district, city, county, or city and county, whether general law or chartered, after January 1, 1987, and before the operative date of the act that adds paragraph (3) that requires the payment of a fee, charge, or dedication for the construction of school facilities as a condition to the approval of construction, may not be affected by the act that adds paragraph (3).

(3) Notwithstanding any other provision of state or local law, until January 1, 2000, any construction not subject to a contract as described in paragraph (2) that is carried out on real property for which residential development was made subject to a condition relating to school facilities imposed by a state or local agency in connection with a legislative act approving or authorizing the residential development of that property after January 1, 1987, and before the operative date of the act adding this paragraph, shall be required to comply with that condition.

Notwithstanding any other provision of state or local law, on and after January 1, 2000, any construction not subject to a contract as described in paragraph (2) that is carried out on real property for which residential development was made subject to a condition relating to school facilities imposed by a state or local agency in connection with a legislative act approving or authorizing



the residential development of that property after January 1, 1987, and before the operative date of the act adding this paragraph, may not be subject to a fee, charge, dedication, or other requirement exceeding the amount specified in paragraphs (1) and (2) of subdivision (b), or, if a district has increased the limit specified in paragraph (1) of subdivision (b) pursuant to either Section 65995.5 or 65995.7, that increased amount.

(4) Any construction that is not subject to a contract as described in paragraph (2), or to paragraph (3), and that satisfies both of the requirements of this paragraph, may not be subject to any increased fee, charge, dedication, or other requirement authorized by the act that adds this paragraph beyond the amount specified in paragraphs (1) and (2) of subdivision (b).

(A) A tentative map, development permit, or conditional use permit was approved before the operative date of the act that amends this subdivision.

(B) A building permit is issued before January 1, 2000.

(d) For purposes of this chapter, “construction” means new construction and reconstruction of existing building for residential, commercial, or industrial. “Residential, commercial, or industrial construction” does not include any facility used exclusively for religious purposes that is thereby exempt from property taxation under the laws of this state, any facility used exclusively as a private full-time day school as described in Section 48222 of the Education Code, or any facility that is owned and occupied by one or more agencies of federal, state, or local government. In addition, “commercial or industrial construction” includes, but is not limited to, any hotel, inn, motel, tourist home, or other lodging for which the maximum term of occupancy for guests does not exceed 30 days, but does not include any residential hotel, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code.

(e) The Legislature finds and declares that the financing of school facilities and the mitigation of the impacts of land use approvals, whether legislative or adjudicative, or both, on the need for school facilities are



matters of statewide concern. For this reason, the Legislature hereby occupies the subject matter of requirements related to school facilities levied or imposed in connection with, or made a condition of, any land use approval, whether legislative or adjudicative act, or both, and the mitigation of the impacts of land use approvals, whether legislative or adjudicative, or both, on the need for school facilities, to the exclusion of all other measures, financial or nonfinancial, on the subjects. For purposes of this subdivision, “school facilities” means any school-related consideration relating to a school district’s ability to accommodate enrollment.

(f) Nothing in this section shall be interpreted to limit or prohibit the use of Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 to finance the construction or reconstruction of school facilities. However, the use of Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 may not be required as a condition of approval of any legislative or adjudicative act, or both, if the purpose of the community facilities district is to finance school facilities.

(g) (1) The refusal of a person to agree to undertake or cause to be undertaken an act relating to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5, including formation of, or annexation to, a community facilities district, voting to levy a special tax, or authorizing another to vote to levy a special tax, may not be a factor when considering the approval of a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization, as defined in Section 56021 or 56073, if the purpose of the community facilities district is to finance school facilities.

(2) If a person voluntarily elects to establish, or annex into, a community facilities district and levy a special tax approved by landowner vote to finance school facilities, the present value of the special tax specified in the resolution of formation shall be calculated as an amount per square foot of assessable space and that amount shall be a credit against any applicable fee, charge, dedication,



or other requirement for the construction or reconstruction of school facilities. For purposes of this paragraph, the calculation of present value shall use the interest rate paid on the United States Treasury's 30-year bond on the date of the formation of, or annexation to, the community facilities district, as the capitalization rate.

(3) For purposes of subdivisions (f), (h), and (i), and this subdivision, "school facilities" means any school-related consideration relating to a school district's ability to accommodate enrollment.

(h) The payment or satisfaction of a fee, charge, or other requirement levied or imposed pursuant to Section 17620 of the Education Code in the amount specified in Section 65995 and, if applicable, any amounts specified in Section 65995.5 or 65995.7 are hereby deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073, on the provision of adequate school facilities.

(i) A state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073 on the basis of a person's refusal to provide school facilities mitigation that exceeds the amounts authorized pursuant to this section or pursuant to Section 65995.5 or 65995.7, as applicable.

SEC. 20. Section 65995.5 is added to the Government Code, to read:

65995.5. (a) The governing board of a school district may impose the amount calculated pursuant to this section as an alternative to the amount that may be imposed on residential construction calculated pursuant to subdivision (b) of Section 65995.

(b) To be eligible to impose the fee, charge, dedication, or other requirement up to the amount



calculated pursuant to this section, a governing board shall do all of the following:

(1) Make a timely application to the State Allocation Board for new construction funding for which it is eligible and be determined by the board to meet the eligibility requirements for new construction funding set forth in Article 2 (commencing with Section 17071.10) and Article 3 (commencing with Section 17071.75) of Chapter 12.5 of Part 10 of the Education Code. A governing board that submits an application to determine the district's eligibility for new construction funding shall be deemed eligible if the State Allocation Board fails to notify the district of the district's eligibility within 120 days of receipt of the application.

(2) Conduct and adopt a school facility needs analysis pursuant to Section 65995.6.

(3) Until January 1, 2000, satisfy at least one of the requirements set forth in subparagraphs (A) to (D), inclusive, and, on and after January 1, 2000, satisfy at least two of the requirements set forth in subparagraphs (A) to (D), inclusive:

(A) The district is a unified or elementary school district that has a substantial enrollment of its elementary school pupils on a multitrack year-round schedule. "Substantial enrollment" for purposes of this paragraph means at least 30 percent of district pupils in kindergarten and grades 1 to 6, inclusive, in the high school attendance area in which all or some of the new residential units identified in the needs analysis are planned for construction. A high school district shall be deemed to have met the requirements of this paragraph if either of the following apply:

(i) At least 30 percent of the high school district's pupils are on a multitrack year-round schedule.

(ii) At least 40 percent of the pupils enrolled in public schools in kindergarten and grades 1 to 12, inclusive, within the boundaries of the high school attendance area for which the school district is applying for new facilities are enrolled in multitrack year-round schools.



(B) The district has placed on the ballot in the previous four years a local general obligation bond to finance school facilities and the measure received at least 50 percent plus one of the votes cast.

(C) The district meets one of the following:

(i) The district has issued debt or incurred obligations for capital outlay in an amount equivalent to 15 percent of the district's local bonding capacity, including indebtedness that is repaid from property taxes, parcel taxes, the district's general fund, special taxes levied pursuant to Section 4 of Article XIII A of the California Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with Section 52211) of Division 2 of Title 5 that are approved by a vote of registered voters, special taxes levied pursuant to Chapter 2.5 (commencing with Section 52211) of Division 2 of Title 5 that are approved by a vote of landowners prior to November 4, 1998, and revenues received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code). Indebtedness or other obligation to finance school facilities to be owned, leased, or used by the district, that is incurred by another public agency, shall be counted for the purpose of calculating whether the district has met the debt percentage requirement contained herein.

(ii) The district has issued debt or incurred obligations for capital outlay in an amount equivalent to 30 percent of the district's local bonding capacity, including indebtedness that is repaid from property taxes, parcel taxes, the district's general fund, special taxes levied pursuant to Section 4 of Article XIII A of the California Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with Section 52211) of Division 2 of Title 5 that are approved by a vote of registered voters, special taxes levied pursuant to Chapter 2.5 (commencing with Section 52211) of Division 2 of Title 5 that are approved by a vote of landowners after November 4, 1998, and revenues received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).



Indebtedness or other obligation to finance school facilities to be owned, leased, or used by the district, that is incurred by another public agency, shall be counted for the purpose of calculating whether the district has met the debt percentage requirement contained herein.

(D) At least 20 percent of the teaching stations within the district are relocatable classrooms.

(c) The maximum square foot fee, charge, dedication, or other requirement authorized by this section that may be collected in accordance with Chapter 6 (commencing with Section 17620) of Part 10.5 of the Education Code shall be calculated by a governing board of a school district, as follows:

(1) The number of unhoused pupils identified in the school facilities needs analysis shall be multiplied by the appropriate amounts provided in subdivision (a) of Section 17072.10. This sum shall be added to the site acquisition and development cost determined pursuant to subdivision (h).

(2) The full amount of local funds the governing board has dedicated to facilities necessitated by new construction shall be subtracted from the amount determined pursuant to paragraph (1). Local funds include fees, charges, dedications, or other requirements imposed on commercial or industrial construction.

(3) The resulting amount determined pursuant to paragraph (2) shall be divided by the projected total square footage of assessable space of residential units anticipated to be constructed during the next five-year period in the school district or the city and county in which the school district is located. The estimate of the projected total square footage shall be based on information available from the city or county within which the residential units are anticipated to be constructed or a market report prepared by an independent third party.

(d) A school district that has a common territorial jurisdiction with a district that imposes the fee, charge, dedication, or other requirement up to the amount calculated pursuant to this section or Section 65995.7, may



not impose a fee, charge, dedication, or other requirement on residential construction that exceeds the limit set forth in subdivision (b) of Section 65995 less the portion of that amount it would be required to share pursuant to Section 17623 of the Education Code, unless that district is eligible to impose the fee, charge, dedication, or other requirement up to the amount calculated pursuant to this section or Section 65995.7.

(e) Nothing in this section is intended to limit or discourage the joint use of school facilities or to limit the ability of a school district to construct school facilities that exceed the amount of funds authorized by Section 17620 of the Education Code and provided by the state grant program, if the additional costs are funded solely by local revenue sources other than fees, charges, dedications, or other requirements imposed on new construction.

(f) A fee, charge, dedication, or other requirement authorized under Section 17620 of the Education Code or pursuant to Chapter 4.7 (commencing with Section 65970) shall be expended solely on the school facilities identified in the needs analysis as being attributable to projected enrollment growth from the construction of new residential units.

(g) “Residential units” and “residences” as used in this section and in Sections 65995.6 and 65995.7 means the development of single-family detached housing units, single-family attached housing units, manufactured homes and mobile homes, as defined in subdivision (f) of Section 17625 of the Education Code, condominiums, and multifamily housing units, including apartments, residential hotels, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, and stock cooperatives, as defined in Section 1351 of the Civil Code.

(h) Site acquisition costs shall not exceed half the amount determined by multiplying the land acreage determined to be necessary under the guidelines of the State Department of Education, as published in the “School Site Analysis and Development Handbook,” as that handbook read as of January 1, 1998, by the estimated



cost determined pursuant to Section 17072.12 of the Education Code. Site development costs shall not exceed two times the amount funded by the State Allocation Board.

SEC. 21. Section 65995.6 is added to the Government Code, to read:

65995.6. (a) The school facilities needs analysis required by paragraph (2) of subdivision (b) of Section 65995.5 shall be conducted by the governing board of a school district to determine the need for new school facilities for unhoused pupils that are attributable to projected enrollment growth from the development of new residential units over the next five years. The school facilities needs analysis shall project the number of unhoused elementary, middle, and high school pupils generated by new residential units, in each category of pupils enrolled in the district. This projection of unhoused pupils shall be based on the historical student generation rates of new residential units constructed during the previous five years that are of a similar type of unit to those anticipated to be constructed either in the school district or the city or county in which the school district is located, and relevant planning agency information, such as multiphased development projects, that may modify the historical figures. For purposes of this paragraph, “type” means a single family detached, single family attached, or multifamily unit. The existing school building capacity shall be calculated pursuant to Article 2 (commencing with Section 17071.10) of Chapter 12.5 of Part 10 of the Education Code. If a district meets the requirements of paragraph (3) of subdivision (b) of Section 65995.5 by having a substantial enrollment on a multitrack year-round schedule, the determination of whether the district has school building capacity area shall reflect the additional capacity created by the multitrack year-round schedule.

(b) When determining the funds necessary to meet its facility needs, the governing board shall do each of the following:



(1) Identify and consider any surplus property owned by the district that can be used as a schoolsite or that is available for sale to finance school facilities.

(2) Identify and consider the extent to which projected enrollment growth may be accommodated by excess capacity in existing facilities.

(3) Identify and consider local sources other than fees, charges, dedications, or other requirements imposed on residential construction available to finance the construction or reconstruction of school facilities needed to accommodate any growth in enrollment attributable to the construction of new residential units.

(c) The governing board shall adopt the school facility needs analysis by resolution at a public hearing. The school facilities needs analysis may not be adopted until the school facilities needs analysis in its final form has been made available to the public for a period of not less than 30 days during which time the school facilities needs analysis shall be provided to the local agency responsible for land use planning for its review and comment. Prior to the adoption of the school facilities needs analysis, the public shall have the opportunity to review and comment on the school facilities needs analysis and the governing board shall respond to written comments it receives regarding the school facilities needs analysis.

(d) Notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed school facilities needs analysis and any proposed revision of the school facilities needs analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the school district that is conducting the hearing no less than 30 days prior to the hearing. If there is no paper of general circulation, the notice shall be posted in at least three conspicuous public places within the jurisdiction of the school district not less than 30 days prior to the hearing. In addition to these notice requirements, the governing board shall mail a copy of the school facilities needs analysis and any proposed revision to the school facilities needs analysis not less than 30 days prior to the



hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The governing board may charge a fee reasonably related to the cost of providing these materials to those persons who request the school facilities needs analysis or revision.

(e) The school facilities needs analysis may be revised at any time in the same manner, and the revision is subject to the same conditions and requirements, applicable to the adoption of the school facilities needs analysis.

(f) A fee, charge, dedication, or other requirement in an amount authorized by this section or Section 65995.7, shall be adopted by a resolution of the governing board as part of the adoption or revision of the school facilities needs analysis and may not be effective for more than one year. Notwithstanding subdivision (a) of Section 17621 of the Education Code, or any other provision of law, the fee, charge, dedication, or other requirement authorized by the resolution shall take effect immediately after the adoption of the resolution.

(g) Division 13 (commencing with Section 21000) of the Public Resources Code may not apply to the preparation, adoption, or update of the school facilities needs analysis, or adoption of the resolution specified in this section.

(h) Notice and hearing requirements other than those provided in this section may not be applicable to the adoption or revision of a school facilities needs analysis or the resolutions adopted pursuant to this section.

SEC. 22. Section 65995.7 is added to the Government Code, to read:

65995.7. (a) If state funds for new school facility construction are not available, the governing board of a school district that complies with Section 65995.5 may increase the alternative fee, charge, dedication, or other requirement calculated pursuant to subdivision (c) of Section 65995.5 by an amount that may not exceed the amount calculated pursuant to subdivision (c) of Section 65995.5, except that for the purposes of calculating this



additional amount, the amount identified in paragraph (2) of subdivision (c) of Section 65995.5 may not be subtracted from the amount determined pursuant to paragraph (1) of subdivision (c) of Section 65995.5. For purposes of this section, state funds are not available if the State Allocation Board is no longer approving apportionments for new construction pursuant to Article 5 (commencing with Section 17072.20) of Chapter 12.5 of Part 10 of the Education Code due to a lack of funds available for new construction. Upon making a determination that state funds are no longer available, the State Allocation Board shall notify the Secretary of the Senate and the Chief Clerk of the Assembly, in writing, of that determination and the date when state funds are no longer available for publication in the respective journal of each house.

(b) A governing board may offer a reimbursement election to the person subject to the fee, charge, dedication, or other requirement that provides the person with the right to monetary reimbursement of the supplemental amount authorized by this section, to the extent that the district receives funds from state sources for construction of the facilities for which that amount was required, less any amount expended by the district for interim housing. At the option of the person subject to the fee, charge, dedication, or other requirement the reimbursement election may be made on a tract or lot basis. Reimbursement of available funds shall be made within 30 days as they are received by the district.

(c) A governing board may offer the person subject to the fee, charge, dedication, or other requirement an opportunity to negotiate an alternative reimbursement agreement if the terms of the agreement are mutually agreed upon.

(d) A governing board may provide that the rights granted by the reimbursement election or the alternative reimbursement agreement are assignable.

SEC. 23. Section 65996 of the Government Code is amended to read:

65996. (a) Notwithstanding Section 65858, or Division 13 (commencing with Section 21000) of the Public Resources Code, or any other provision of state or local law, the following provisions shall be the exclusive methods of considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property or any change of governmental organization or reorganization, as defined in Section 56021 or 56073:

(1) Section 17620 of the Education Code.

(2) Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7.

(b) The provisions of this chapter are hereby deemed to provide full and complete school facilities mitigation and, notwithstanding Section 65858, or Division 13 (commencing with Section 21000) of the Public Resources Code, or any other provision of state or local law, a state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property or any change in governmental organization or reorganization, as defined in Section 56021 or 56073, on the basis that school facilities are inadequate.

(c) For purposes of this section, “school facilities” means any school-related consideration relating to a school district’s ability to accommodate enrollment.

(d) Nothing in this chapter shall be interpreted to limit or prohibit the ability of a local agency to utilize other methods to provide school facilities if these methods are not levied or imposed in connection with, or made a condition of, a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property or a change in governmental organization or reorganization, as defined in Section 56021 or 56073. Nothing in this chapter shall be interpreted to limit or prohibit the assessment or reassessment of property in conjunction with ad valorem



taxes, or the placement of a parcel on the secured roll in conjunction with qualified special taxes as that term is used in Section 50079.

(e) Nothing in this section shall be interpreted to limit or prohibit the ability of a local agency to mitigate the impacts of land use approvals other than on the need for school facilities, as defined in this section.

(f) This section shall become inoperative during any time that Section 65997 is operative and this section shall become operative at any time that Section 65997 is inoperative.

SEC. 24. Section 65997 is added to the Government Code, to read:

65997. (a) The following provisions shall be the exclusive methods of mitigating environmental effects related to the adequacy of school facilities when considering the approval or the establishment of conditions for the approval of a development project, as defined in Section 17620, pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code:

(1) Chapter 12 (commencing with Section 17000) of Part 10 of the Education Code or Chapter 12.5 (commencing with Section 17070.10).

(2) Chapter 14 (commencing with Section 17085) of Part 10 of the Education Code.

(3) Chapter 18 (commencing with Section 17170) of Part 10 of the Education Code.

(4) Article 2.5 (commencing with Section 17430) of Chapter 4 of Part 10.5 of the Education Code.

(5) Section 17620 of the Education Code.

(6) Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 of the Government Code.

(7) Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7 of the Government Code.

(b) A public agency may not, pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code or Division 2 (commencing with Section 66410) of this code, deny approval of a project on the basis of the adequacy of school facilities.



(c) (1) This section shall become operative on or after any statewide election in 2006, if a statewide general obligation bond measure submitted for voter approval in 2006 or thereafter that includes bond issuance authority to fund construction of kindergarten and grades 1 to 12, inclusive, public school facilities is submitted to the voters and fails to be approved.

(2) (A) This section shall become inoperative if subsequent to the failure of a general obligation bond measure described in paragraph (1) a statewide general bond measure as described in paragraph (1) is approved by the voters.

(B) Thereafter, this section shall become operative if a statewide general obligation bond measure submitted for voter approval that includes bond issuance authority to fund construction of kindergarten and grades 1 to 12, inclusive, public school facilities is submitted to the voters and fails to be approved and shall become inoperative if subsequent to the failure of the general obligation bond measure a statewide bond measure as described in this subparagraph is approved by the voters.

(d) Notwithstanding any other provision of law, a public agency may deny or refuse to approve a legislative act involving, but not limited to, the planning, use, or development of real property, on the basis that school facilities are inadequate, except that a public agency may not require the payment or satisfaction of a fee, charge, dedication, or other financial requirement in excess of that levied or imposed pursuant to Section 65995 and, if applicable, any amounts specified in Sections 65995.5 or 65995.7.

SEC. 25. Section 65998 is added to the Government Code, to read:

65998. (a) Nothing in this chapter or in Section 17620 of the Education Code shall be interpreted to limit or prohibit the authority of a local agency to reserve or designate real property for a schoolsite.

(b) Nothing in this chapter or in Section 17620 of the Education Code shall be interpreted to limit or prohibit the ability of a local agency to mitigate the impacts of a



land use approval involving, but not limited to, the planning, use, or development of real property other than on the need for school facilities.

SEC. 26. Chapter 9 (commencing with Section 51450) is added to Division 31 of the Health and Safety Code, to read:

CHAPTER 9. SCHOOL FACILITY FEE AFFORDABLE
HOUSING ASSISTANCE PROGRAMS

51450. (a) It is the intent of the Legislature that affordable homebuyer and rental housing programs be implemented to address the needs of economically distressed entities in the state and the needs of very low, low-, and moderate-income homebuyers and renters who may be affected by the impact of school facility fees on the development of affordable housing.

(b) The Department of General Services shall contract with the California Housing Finance Agency for the administration of the programs established by this chapter and for the allocation of funds to the purchasers of newly constructed residential structures and the housing sponsors of housing developments, pursuant to this chapter. The California Housing Finance Agency shall administer these programs and allocate funds in accordance with that agency's authority as set forth in Part 3 (commencing with Section 50900) of Division 31.

51451. The Homebuyer Down Payment Assistance Program and the Rental Assistance Program are hereby established to provide assistance in the amount of the applicable school facility fee on affordable housing developments.

(a) A Homebuyer Down Payment Assistance Program shall provide the following assistance:

(1) Downpayment assistance to the purchaser of newly constructed residential structures in a development project in economically distressed areas in the amount of school facility fees paid pursuant to Sections 65995.5 or 65995.7 of the Government Code, less the amount that would be required pursuant to

subdivision (b) of Section 65995 of the Government Code notwithstanding Sections 65995.5 and 65995.7 of the Government Code, if all of the following conditions are met:

(A) The development project is located in a county with an unemployment rate that equals or exceeds 125 percent of the state unemployment rate.

(B) Five hundred or more residential structures have been constructed in the county during 1997.

(C) A building permit for an eligible residential structure in the development project is issued by the local agency on or after January 1, 1999.

(D) The eligible residential structure is to be owner occupied for at least five years. If a structure is owner occupied for fewer than five years, the recipient of the assistance shall repay the School Facilities Fee Assistance Fund the amount of the assistance, on a prorated basis.

(E) The sales price of the eligible residential structure does not exceed 175 percent of the median sales price of residential structures in the county during the average of the previous five years.

(2) Downpayment assistance to the purchaser of any newly constructed residential structure in the development project in the amount of school facility fees paid pursuant to Sections 65995.5 or 65995.7 of the Government Code, less the amount that would be required pursuant to subdivision (b) of Section 65995 of the Government Code notwithstanding Sections 65995.5 and 65995.7 of the Government Code, if all of the following conditions are met:

(A) The development project is located in the state of California.

(B) The sales price of the eligible residential structure in the development project does not exceed one hundred ten thousand dollars (\$110,000).

(C) A building permit for an eligible residential structure in the development project is issued by the local agency on or after January 1, 1999.

(D) The eligible residential structure is to be owner occupied for at least five years. If a structure is owner



occupied for fewer than five years, the recipient of the assistance shall repay the School Facilities Fee Assistance Fund the amount of the assistance, on a prorated basis.

(3) Downpayment to the purchaser of any newly constructed residential structure in a development project in the amount of school facility fees paid pursuant to subdivision (b) of Section 65995 of the Government Code, Section 65995.5 of the Government Code, or Section 65995.7 of the Government Code for the eligible residential structure if all of the following conditions are met:

(A) The assistance is provided to a qualified first-time homebuyer pursuant to Section 50068.5.

(B) The qualified first-time homebuyer meets the very low or low-income requirements set forth in Section 50052.5.

(C) A building permit for an eligible residential structure in the development project is issued by the local agency on or after January 1, 1999.

(D) The eligible residential structure is to be owner occupied for at least five years. If a structure is owner occupied for fewer than five years, the recipient of the assistance shall repay the School Facilities Fee Assistance Fund the amount of the assistance, on a prorated basis.

(b) A Rental Assistance Program shall provide assistance to the housing sponsor of a housing development in the amount of the school facility fees paid pursuant to subdivision (b) of Section 65995 of the Government Code, Section 65995.5 of the Government Code, or Section 65995.7 of the Government Code that meets all of the following conditions:

(1) The units are deed restricted to very low income households and are continuously available to or occupied by very low income households at rents that do not exceed those prescribed by Section 50053, except that for the purposes of this subdivision, very low income shall be defined as 30 percent times 30 percent of the median income adjusted for family size appropriate for the unit.

(2) The number of dedicated residential units must equal or exceed the number of units supported by the

reimbursed school impact fees determined by the average per unit development cost.

(3) The dedicated residential units are regulated by an appropriate local or state agency for a minimum of 30 years.

(4) A building permit for an eligible residential unit in the development project is issued by the local agency on or after January 1, 1999.

51452. (a) The School Facilities Fee Assistance Fund is hereby established in the State Treasury and, notwithstanding Section 13340 of the Government Code, is continuously appropriated to the Department of General Services for the purposes of this chapter.

(b) The amount of one hundred sixty million dollars (\$160,000,000) is hereby appropriated from the General Fund to the School Facilities Fee Assistance Fund for administrative costs and to make payments to purchasers of newly constructed residential structures and housing sponsors of housing developments pursuant to this chapter from that fund for a period of four years as follows:

(1) Twenty-eight million dollars (\$28,000,000) shall be available for the program set forth in paragraph (1) of subdivision (a) of Section 51451, except that any funds not expended within 18 months shall be available for programs set forth in paragraphs (2) and (3) of subdivision (a) of Section 51451.

(2) Twenty-eight million dollars (\$28,000,000) shall be available for the program set forth in paragraph (2) of subdivision (a) of Section 51451.

(3) Fifty-two million dollars (\$52,000,000) shall be available for the program set forth in paragraph (3) of subdivision (a) of Section 51451.

(4) Fifty-two million dollars (\$52,000,000) shall be available for the program set forth in subdivision (b) of Section 51451.

51453. Twenty-five percent of the funds available in each of the programs pursuant to Section 51452 shall be allocated in each of the four fiscal years, commencing with the 1998–99 fiscal year.



51454. The Legislative Analyst's Office shall submit a report to the Legislature and the Governor no later than January 1, 2001, regarding the effectiveness of the programs established pursuant to this chapter.

51455. This chapter shall remain in effect only until January 1, 2002, and as of that date is repealed.

SEC. 27. The Legislature declares that it is the policy of the state to exercise prudence in undertaking the sale of bonds otherwise authorized for sale by the act adding this section. In this regard, the Legislature encourages undertaking the sale of bonds in a manner not to exceed debt service to General Fund revenue ratio of 6 percent unless the sale is in the best fiscal interest of the state.

SEC. 28. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 29. Section 16 of this act shall become effective upon the approval by the voters, at the November 3, 1998, statewide general election, of the Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998, as set forth in Section 16 of this act.

SEC. 30. (a) Notwithstanding any other provision of law, with respect to the Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998, all ballots of the November 3, 1998, statewide general election shall have printed thereon and in a square thereof, exclusively the words: "Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998" and in the same square under

those words, the following in 8-point type: “This nine billion two hundred million dollar (\$9,200,000,000) bond issue will provide funding for necessary education facilities for at least four years for class size reduction, to relieve overcrowding and accommodate student enrollment growth and to repair older schools and for wiring and cabling for education technology. Funds will also be used to upgrade and build new classrooms in community colleges, the California State University, and the University of California. These bonds may be used only for eligible construction projects.” Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(b) Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in subdivision (a) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and the financial impact summary.

(c) Where the voting in the election is done by means of voting machines used pursuant to law in a manner that carries out the intent of this section, the use of the voting machines and the expression of the voters’ choice by means thereof are in compliance with this section.

SEC. 31. Section 3, Section 12, and Section 18 to 28, inclusive, of this act shall not become operative before November 4, 1998, and on that date shall become operative only if the Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998 is approved by the voters at the November 3, 1998, statewide general election.

SEC. 32. If the Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998 is not approved by the voters at the



November 3, 1998, statewide general election, Section 17009.3 of the Education Code, as added by Section 2 of, and Chapter 12.5 (commencing with Section 17070.10) of Part 10 of the Education Code, as added by Section 4 of, this act shall become inoperative on November 4, 1998.

SEC. 33. Notwithstanding the requirements of Sections 9040, 9043, 9044, 9061, and 9082 of the Elections Code or any other provision of law, the Secretary of State shall submit Section 16 of this act to the voters at the November 3, 1998, statewide general election.

SEC. 34. Notwithstanding Section 13115 of the Elections Code, Section 16 of this act shall be placed first on the ballot for the November 3, 1998, statewide general election, and shall be designated as Proposition 1A.

SEC. 35. Notwithstanding Section 13282 of the Elections Code, the public shall be permitted to examine the condensed statement of the ballot title regarding the measure set forth in Section 16 of this act for not more than eight days, and the financial impact statement from the time it is received by the Secretary of State until the end of the eight days. Any voter may seek a writ of mandate for the purpose of requiring any statement of the ballot title, or portion thereof, to be amended or deleted only within that eight-day period.

SEC. 36. The Secretary of State shall include, in the ballot pamphlets mailed pursuant to Section 9094 of the Elections Code, the information specified in Section 9084 of the Elections Code regarding the bond act contained in Section 16 of this act. If that inclusion is not possible, the Secretary of State shall publish a supplemental ballot pamphlet regarding this act to be mailed with the ballot pamphlet. If the supplemental ballot pamphlet cannot be mailed with the ballot pamphlet, the supplemental ballot pamphlet shall be mailed separately.

SEC. 37. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:



In order to provide adequate school facilities to house the growing pupil population attending the California schools, to facilitate class size reduction, to renovate existing facilities, to provide for joint-use facilities, and to provide adequate higher education facilities to accommodate the growing number of students, it is necessary that this act take effect immediately.



Approved _____, 1998

Governor

